IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5857 OF 2003

Miss Sunita Chatursingh Bhat.... Petitioner

Versus

State of Maharashtra & ors .... Respondent

Mr.Uday Warunjikar for Petitioner

Mr.D.A.Patil AGP for Respondent nos. 1 to 3.

Mr.G.M.Savagave for Respondent no.4

Mr.A.B.Borkar for Respondent no.6

CORAM : A.S.Oka, J

DATE: 10th December,2004

P.C.:

1. Heard learned counsel appearing for the parties. Notice for final disposal was issued on 12th August, 2003.

2. Applications were invited for grant of ration shops in certain areas of Ichalkaranji city. Applications were made by six parties. The District Supply Officer passed an order in favour of the petitioner and granted authorisation to her. In separate revision applications preferred by the respondent nos. 4 to 6 against the said order, the Deputy Commissioner (Supply) Pune Division Pune has upset the said order dated 11th September, 2002 passed by the District Supply Officer and has directed the District Supply Officer to consider the applications received by him afresh.

3. Mr. Warunjikar learned counsel for the petitioner submitted that the respondent no.4 adopted two proceedings against the order passed by the District Supply Officer. Firstly, the respondent no.4 filed a revision application before the Hon'ble Minister and obtained

an ex parte ad interim stay and thereafter filed a revision application before the Deputy Commissioner (Supply). He submitted that the revision application preferred before the hon'ble Minister was not withdrawn by the respondent no.4 and therefore the revision application at the instance of the respondent no.4 ought not to have been entertained by the Deputy Commissioner. Learned counsel for the petitioner further submitted that there is no ground for passing the order of remand and considering the priority list, no other applicant save and except the petitioner will been entitled to authorisation for running the ration shop. He submitted that the District Supply Officer found that all other applicants save and except the petitioner were not eligible for specific reasons which was recorded in the order and therefore it was not necessary to set aside the order passed by the District Supply Officer.

4. Learned counsel for the respondent no. 4 and learned counsel appearing for the respondent no,.6 have supported the impugned judgment. They pointed out that for reasons which are recorded by the Deputy Commissioner, a fresh consideration of all the applications is necessary. The Assistant Government Pleader also supported the impugned order.

5. I have considered the rival submissions. The District Supply Officer has found that the respondent no.6 made compliance with all the requirements and only the requirement which was not complied with within the stipulated time was regarding furnishing accounts for three years. In so far as the respondent no.4 is concerned a finding is recorded that the reasons given by the District Supply Officer for rejecting her application were not appropriate. An observation was made that in case of other applicants also due reconsideration was required to be made after considering the other aspects such as place of business, education and experience etc.

6. If the reasons given by the District Supply Officer in order dated 11th September, 2002 are perused, no fault can be found with the approach of the revisional authority. The observations made as regards the respondent no.4 by the District Supply Officer is that all the documents including the receipt of payment of property tax in respect of place of

business is filed and what has not been filed is the property extract or Property Register card. In the matter of allotment of authorisation/permission for opening ration shops if the revisional authority finds that fresh consideration of eligibility of all the applicants needs to be made in the absence of any specific allegation of malafide or arbitrariness, no interference is called for in the writ jurisdiction with such an order of remand.

7. It is brought to my notice that initially stay was granted by the Hon'ble Minister to the order dated 11th September, 2002. When stay was granted the petitioner was already running the ration shop. In view of this position, by order dated 2nd December, 2002 passed in Writ Petition No. 7312 of 2002 this court stayed the operation of this order passed by the Hon'ble Minster and subsequently the order of stay passed by the Hon'ble Minister has been set aside. Even in this petition this court protected the petitioner by granting ad interim relief on 12th August, 2003.

8. In this view of the matter, pending reconsideration of all the applications by the District Supply Officer, it will be in the interest of justice if ad interim relief granted by this court on 12th August, 2003 is ordered to continue.

9. Hence, I pass the following order :

(i) Writ petition is rejected with costs.

(ii) Till the disposal of the matter by the respondent no.3 as per direction given by the impugned order, ad interim relief granted by this court on 12th August, 2003 will continue to operate. If the order passed by the respondent no.3 is adverse to the petitioner, the said ad interim order will continue to operate for further period of 15 days from the date of communication of the said order to the petitioner. All o questions on merits are kept open.

10. Parties to act on an authenticated copy of this order.